

Message Text

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PAGE 01 CARACA 09516 052230Z

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SUBJECT: FISCAL GENERAL QUESTIONS DEPUTIES' DETENTION

REF: CARACAS 9457

1. GOV FISCAL GENERAL JOSE RAMON MEDINA STATED AUGUST 4 THAT THE ARREST AUGUST 3 OF DEPUTIES FORTUNATO HERRERA AND SALOM MEZA DID NOT FOLLOW THE PROCEDURE OUTLINED IN THE CONSTITUTION AND SMACKED OF PREVENTIVE DETENTION THAT "DID HARM TO THE PRINCIPLE OF PARLIAMENTARY IMMUNITY." MEDINA ADDED THAT THE ARREST OF HERRERA AND MEZA BY THE THIRD MILITARY COURT HAD "VIOLATED PARLIAMENTARY IMMUNITY AND INJURED THE SOVEREIGNTY OF CONGRESS AND THE DEMOCRATIC SYSTEM." MEDINA REAFFIRMED THAT HIS POSITION WAS THAT OF ARTICLE 215 OF THE CONSTITUTION WHICH STIPULATES THAT IT IS THE PREROGATIVE OF THE SUPREME COURT "TO DECLARE WHETHER OR NOT THERE ARE GROUNDS FOR THE TRIAL OF MEMBERS OF CONGRESS." MEDINA POINTED OUT THAT ACCORDING TO THE CRIMINAL TRIAL CODE CRIMES SUCH A MILITARY REBELLION, KIDNAPPING, AND THE CARRYING OF MILITARY WEAPONS COULD BE TRIED IN THE CRIMINAL COURTS AS WELL AS UNDER MILITARY JUSTICE. MEDINA SAID HIS OFFICE WAS PREPARING A BRIEF TO PRESENT TO THE SUPREME COURT TODAY, AUGUST 5, TO SETTLE THE QUESTION OF COMPETENCE.

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PAGE 02 CARACA 09516 052230Z

2. REACTING TO MEDINA'S STATEMENT, PRESIDENT CARLOS ANDRES PEREZ REPORTEDLY SAID THAT IT WAS "IMPOSSIBLE THAT THE CONSTITUTION HAD BEEN VIOLATED" BY THE DETENTION OF THE TWO DEPUTIES. "THE ONLY AUTHORITY," HE ADDED, "THAT CAN RULE WITH REGARD TO THE CASE IS THE SUPREME COURT." EXPRESSING DOUBT THAT THE FISCAL GENERAL HAD STATED THAT THE CONSTITUTION HAD BEEN VIOLATED, PEREZ SAID, "PERHAPS THE FISCAL GENERAL DOES NOT UNDERSTAND THAT ARREST WARRANTS WERE ISSUED BY A MILITARY COURT." PEREZ WENT ON TO SAY THAT THE ACTION OF THE COURT WAS NO "PRECIPITOUS, NOR WAS IT THE FIRST TIME THAT IT HAS BEEN DONE."

3. INTERIOR MINISTER OCTAVIO LEPAGE STATED AUGUST 4, THAT THE GOV HAD DECIDED TO SUBMIT THE CASE OF DEPUTIES HERRERA AND MEZA TO THE MILITARY COURTS BECAUSE THEY FIGURED IN A CRIME INVOLVING MILITARY REBELLION. HE ATTACKED A CHARGE BY THE OPPOSITION COPEI PARTY THAT THE DEPUTIES' DETENTION WAS UNCONSTITUTIONAL POINTING OUT THAT COPEI ON TWO PREVIOUS OCCASIONS HAD SUPPORTED ARRESTS OF MEMBERS OF CONGRESS WITHOUT LIFTING THEIR PARLIAMENTARY IMMUNITY WHEN MILITARY CRIMES HAD BEEN COMMITTED. LEPAGE NOTED THAT ALTHOUGH A CLIMATE OF VIOLENCE DOES NOT NOW EXIST IN VENEZUELA, THERE STILL ARE ULTRA-LEFTIST GROUPS WHICH HAVE NOT RENOUNCED THE USE OF VIOLENCE IN TRYING TO OERTHROW THE POLITICAL SYSTEM. WITH REGARD TO THE WHEREABOUTS OF KIDNAPPED U.S. INDUSTRIALIST WILLIAM NIEHOUS, LEPAGE SAID THERE WAS NO CONCRETE INFORMATION REGARDING THE PLACE WHERE HE IS BEING HELD.

5. THE COPEI PARTY ISSUED A STATEMENT AUGUST 4 IN WHICH IT CHARACTERIZED THE ARRESTS OF HERRERA AND MEZA AS A GOV COUNTER-MEASURE TO REMOVE ATTENTION FROM THE TORTURE/DEATH OF LEFTIST LEADER JORGE RODRIQUEZ. COPEI EMPHASIZED THE GOV'S RESPONSIBILITY IN RODRIQUEZ'S DEATH AND STATED THAT THE GOV COULD REGAIN ITS CREDIBILITY ONLY THROUGH "FIRM, SERIOUS, TRUTHFUL, AND RESPONSIBLE ACTION." ACTING COPEI PRESIDENT ARISTIDES CALVANI REFUSED TO COMMENT WITH REGARD TO PREVIOUS MILITARY COURT CASES INVOLVING MEMBERS OF CONGRESS SAYING THAT TO DO SO WOULD BE "TO FALL IN THE GOVERNMENT'S TRAP." MEP PRESIDENT LUIS PRIETO CALLED THE DEPUTIES' DETENTION A "COUP D'ETAT AGAINST CONGRESS." MEP DEPUTY SIUBERTO MARTINEZ ADDRESSING THE CHAMBER OF DEPUTIES AUGUST 4 CALLED FOR THE FISCAL GENERAL'S INTERVENTION IN ORDER TO RESTORE THE RULE OF LAW AND THE DEPUTIES IMMEDIATE RELEASE.

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PAGE 03 CARACA 09516 052230Z

5. COMMENT. A FORMER PRESIDENT OF THE COUNCIL OF THE JUDICATURE, MEDINA IS HIGHLY RESPECTED WITHIN THE LEGAL PROFESSION AND IS WELL KNOWN FOR THE INDEPENDENCE OF HIS VIEWS. ELECTED BY THE CONGRESS, HE IS NOT BEHOLDEN TO THE EXECUTIVE. MEDINA ON PREVIOUS OCCASIONS HAS MADE IT CLEAR THAT HE INTENDS TO PERFORM THE DUTIES OF HIS OFFICE AS HE SEES THEM AND EXERCISE HIS FULL AUTHORITY IN PROTECTING CONSTITUTIONAL GUARANTEES.

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